

2574.

TREASURER OF BOARD OF TRUSTEES OF LIBRARY MAY NOT RECEIVE COMPENSATION FOR SERVICES—SECTIONS 7635 AND 7638 G. C. CONSTRUED.

SYLLABUS:

The board of trustees of a library organized under the provisions of section 7635 G. C. et seq., is without authority to provide compensation for the services of its treasurer elected under the provisions of section 7638 G. C.

COLUMBUS, OHIO, June 17, 1925.

HON. HERBERT S. HIRSHBERG, *State Librarian, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication of recent date, in which you submitted to this department for our opinion an inquiry submitted to you by a member of the board of trustees of the Salem public library as follows:

“I notice the law provides that no one acting as trustee of a library shall receive any compensation. Suppose that one of the trustees should be elected to serve as treasurer of the library. Can he or she receive compensation as such treasurer and if not can any one the trustees might select, but not a member of the board, who would furnish good and satisfactory bond serve in the capacity of treasurer and can the board legally pay for such service?”

Your communication also indicates that the board of trustees in question was organized under the provisions of section 7635 General Code, et seq. Section 7636 G. C., provides as follows:

“Such board of library trustees shall consist of seven members, who must be residents of the school district. No one shall be eligible to membership on such library board who is or has been for a year previous to his election, a member or officer of the board of education. The term of office shall be seven years, except that at the first election the terms must be such that one member retires each year. Should a vacancy occur in the board, it shall be filled by the board of education for the unexpired term. *The members of the library board must serve without compensation and until their successors are elected and qualified.*

It will be observed that the last provision of the above quoted section requires the members of the library board must serve without compensation. This provision also will probably preclude any member of said board of trustees receiving any compensation for services in connection with such board.

Attention is further directed to the provisions of section 7637, which enumerates the powers of such board and provides that such board “may employ a librarian and assistants, but previous to such employment their compensation shall be fixed.” This is the only provision providing for any employes of such board of trustees.

In a former opinion of this department, opinions 1922, page 1003, it was held:

“The said board of library trustees may legally employ persons in ca-

pacities other than librarians and assistant librarians and may, if they see fit, combine the duties of the several officers, selected by them for the transaction of said board's business."

Thus, without direct authorization of the legislature, it was held that such board could legally employ other employes than librarian; but since the above referred to opinion was rendered, the legislature has undertaken to remedy this situation by enactment of section 7638-1 G. C., which reads as follows:

"For the transaction of its business the board of library trustees shall elect a president, vice-president, secretary and treasurer, and such other officers as shall be deemed expedient or necessary, and with the exception of the offices of president and vice-president, may repose the duties of such officers, who need not be members or member of the board, in one person, provided, however, that the treasurer of said library board shall be required to give bond in such amount and form as the library trustees may prescribe, to secure such funds in his custody, as may not be otherwise prescribed by law. The name of the board of trustees under which it may acquire or convey property, contract, or be contracted with, sue or be sued, or perform any other official acts, may be The ----- Public Library, the blank being filled with the name of the municipality or township or school district, (if the name of the municipality or township is not part of the name of the school district) in which the principal library is situated, or with the name of any donor or other person the board of trustees may wish to designate."

This section, as it appears in 110 O. L., page 407, provides that such board of library trustees shall elect a treasurer but in no wise provides for his compensation and in no other part of the several sections referred to is there any provision for the compensation of the officers or employes of such board of trustees other than the provision in the latter part of section 7637, which makes reference only to the compensation of the librarian and assistants.

Attention is also directed to the last provision of section 7638 General Code, which provides in part as follows:

"No member of the library board shall be interested directly or indirectly in any contract made by the board."

It is believed this provision would be a further inhibition against the employment of a member of such board of trustees as its treasurer. Employment contemplates a contract and a contract contemplates a consideration, and such contract would, doubtless, come within the above provision prohibiting members of such board of trustees from becoming interested directly or indirectly in any contract made by such board.

Therefore, in view of the above provisions, it is not believed that such board of library trustees has any authority to provide compensation for the service of its treasurer.

Respectfully,
C. C. CRABBE,
Attorney General.